

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

KENNETH FLEMING, JOHN DOE, R.K.
and T.D.

NO. 04-2338 RSM

Plaintiff,
v.

**(PROPOSED)
ORDER GRANTING
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT ON
STATUTE OF LIMITATIONS
GROUNDS (RCW 4.16.340)**

THE CORPORATION OF THE
PRESIDENT OF THE CHURCH OF
JESUS CHRIST OF LATTER-DAY
SAINTS, a Utah corporation sole, a/k/a
"MORMON CHURCH"; LDS SOCIAL
SERVICES a/k/a LDS FAMILY SERVICES
a Utah corporation

Defendant.

THIS MATTER, having come on regularly before the above-captioned Court upon motion of defendants COP and LDSFS, properly and duly noted pursuant to Fed.R.Civ.P. 56 and CR 7, for an Order on Summary Judgment Dismissing Plaintiffs' Claims due to the running of the applicable statute of limitations (RCW 4.16.340), and the Court having considered the records and files herein, including:

**ORDER GRANTING DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT RE STATUTE OF
LIMITATIONS-1**

04-2338 RSM
7566-025226 62064

STAFFORD FREY COOPER

PROFESSIONAL CORPORATION
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- 1 1. Defendants' Motion for Summary Judgment regarding (1) plaintiffs' claim
 based on a failure to report sexual abuse pursuant to RCW 26.44; (2) plaintiff
 R.K.'s negligence/special relationship claim for lack of duty; (3) plaintiffs'
 claims for equitable estoppel and fraudulent concealment; (4) plaintiffs'
 claims for negligent infliction of emotional distress; (5) plaintiff T.D.'s claims
 for lack of proven damages; (6) plaintiffs' civil conspiracy claims; (7) plaintiffs'
 John Doe and R.K.'s claims for sexual abuse that occurred before first notice
 to defendant COP in 1972; (8) plaintiffs' claims for failure to prove proximate
 cause of damages caused by defendants' conduct; (9) legal rulings on the
 issue of segregation of damages between intentional tortfeasors and
 negligent tortfeasors;
- 2 2. Defendants' Motion for Summary Judgment on Statute of Limitations
 Grounds;
- 3 3. Declaration of Marcus B. Nash, with exhibits:
 - 9 a. A true and correct copy of selected portions of the transcript of the
 deposition of plaintiff Robert Kelly taken August 29, 2005.
 - 10 b. A true and correct copy of selected portions of the transcript of the
 deposition of Dorothy L. Kelly taken March 2, 2005.
 - 11 c. A true and correct copy of selected portions of the transcript of the
 deposition of plaintiff Todd Denny taken September 7, 2005.
 - 12 d. A true and correct copy of selected portions of the transcript of the
 deposition of Jon Conte PhD taken October 21, 2005.
 - 13 e. A true and correct copy of selected portions of the transcript of the
 deposition of plaintiff James Allenbach taken July 20, 2005.
 - 14 f-1 A true and correct copy of a report prepared by Stuart Greenberg PhD
 dated September 7, 2005 regarding James Allenbach.
 - 15 f-2 A true and correct copy of a report prepared by Stuart Greenberg PhD
 dated September 7, 2005 regarding Kenneth Fleming.
 - 16 g. A true and correct copy of selected portions of the transcript of the
 deposition of plaintiff Kenneth Fleming taken July 20, 2005.
 - 17 h. A true and correct copy of selected portions of the transcript of the
 deposition of Richard Pettit taken December 13, 2005.

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 ORDER GRANTING DEFENDANTS' MOTION
 FOR SUMMARY JUDGMENT RE STATUTE OF
 LIMITATIONS-2

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- i. A true and correct copy of selected portions of the transcript of the deposition of Fred Denison taken January 4, 2006.
- j. A true and correct copy of the recently filed opinion in Melanie H. v. Defendant Doe, et. al., No. 04-1596 (D. So. Cal. Filed December 21, 2005).

4. Defendants' Proposed Orders Granting their Motions for Summary Judgment of Dismissal;

5. Plaintiffs' memoranda in opposition to defendants' Motions for Summary Judgment, if any;

6. Declarations submitted by plaintiffs in opposition to defendants' Motions for Summary Judgment, if any; and

7. Plaintiffs' Proposed Orders Denying Defendants' Motions for Summary Judgment of Dismissal

And the Court having reviewed the records and files herein; having heard the argument of counsel; and deeming itself fully advised in the premises, and the Court finding that the statute of limitations expired prior to the commencement of the subject action by any of the plaintiffs, it is hereby

ORDERED, ADJUDGED, AND DECREED, that Defendants' Motion for Summary Judgments shall be, and hereby are, granted, and plaintiffs' claims shall be, and hereby are dismissed with prejudice.

DONE IN OPEN COURT this ____ day of February, 2006

THE HONORABLE RICARDO S. MARTINEZ

**ORDER GRANTING DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT RE STATUTE OF
LIMITATIONS–3**

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1 Presented by:

2 STAFFORD FREY COOPER

4 By: /s/ Marcus B. Nash via ECF

5 Thomas D. Frey, WSBA #1908
Marcus B. Nash, WSBA #14471
6 Attorneys for Defendants

7 **Copies received; approved as to form;**
8 **Notice of presentation waived:**

9 GORDON, THOMAS, HONEYWELL

11 By: _____
12 Michael T. Pfau, WSBA No 24649

13 LAW OFFICES OF TIMOTHY D. KOSNOFF

15 By: _____
16 Timothy D. Kosnoff, WSBA No. 16586

21 ORDER GRANTING DEFENDANTS' MOTION
22 FOR SUMMARY JUDGMENT RE STATUTE OF
23 LIMITATIONS-4

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Certificate of Service

I certify that on the date noted below I electronically filed this document entitled with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following persons, in addition to service via hand delivery:

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DATED this 6th day of January, 2006, at Seattle, Washington.

/s/Marcus B. Nash via ECF

**ORDER GRANTING DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT RE STATUTE OF
LIMITATIONS–5**

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